

In the Matter of

Case No. 18-cv-05775 (ERK)(TAM)

STAR AUTO SALES OF BAYSIDE, INC., et al.

v.

VOYNOW, BAYARD, WHYTE AND COMPANY LLP, et al.

Deposition of Vincent Petruzzello

Monday, December 18, 2023



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2 represent someone as an expert, there was no
3 deposition, it was just -- it went to trial.

4 Q. That case where you appeared as an
5 expert and it went to trial, what was the name
6 of that case?

7 A. I don't know the exact name of the
8 case.

9 Q. Do you know any of the parties to
10 that case?

11 A. Yes. Let me think for a second.
12 If I can look here (indicating). It was
13 Brandow Chrysler versus Reed Smith.

14 Q. Mr. PetruzzIELLO, you just got up
15 from your desk, so just so you know, you're on
16 video. So, what did you refer to, to get that
17 name?

18 A. I went to the bookshelf next to my
19 desk, and I do have that report that I prepared
20 in my bookshelf.

21 Q. Okay.

22 MR. MULE: We'll ask for a copy of
23 that report, please.

24 MS. FITZGERALD: Put your request in
25 writing, and then we'll respond.

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capacity.

BY MR. MULE:

Q. Did that particular engagement involve the topic of fraud and management's role and responsibility in operating an automobile dealership?

A. I believe it did.

Q. Is that the case that you're referring to when you state that you've been qualified as an expert and have presented testimony on the topic of fraud, and management's role and responsibility in operating an automobile dealership?

A. Yes.

Q. Is there any other case where you've been qualified as an expert and have presented testimony on that topic?

A. No.

Q. So, you've been qualified as an expert in one case; correct?

A. You got to start somewhere.

Q. And that was how many years ago?

A. I believe it was 2013. It went on for a while, but -- if you want me to go to my

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credenza, I can look at the report.

Q. That's unnecessary for the moment.
Have you been consulted by any dealership or
anyone else other than this case, about claims
concerning management's role and responsibility
in operating an automobile dealership?

A. No. I've done consulting work for
various dealer groups, but it wasn't
specifically dealing with fraud.

Q. If you could get the -- I guess get
that report from the credenza.

MS. FITZGERALD: You know what? I'm
not going to -- I'm going to object to
any -- well, first of all, what's the
follow-up on it?

MR. MULE: He just referred to it,
so I'm going to ask him questions about
it.

MS. FITZGERALD: I'll just have a
standing objection to the line of
questions. This is not a document that
is referenced or incorporated into the
report in this case for which he is being
offered as an expert to provide

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2 testimony.

3 MR. MULE: Okay. But we -- but

4 nonetheless, we'll ask questions.

5 BY MR. MULE:

6 Q. Mr. PetruzzIELLO, if you could
7 please get the report (indicating). Okay. If
8 you could -- you started to say that -- what
9 that claim was. If you could refresh your
10 recollection by looking at that report and tell
11 me in a little more detail what the claims were
12 in that case.

13 A. Well, the claim is quite simple.
14 The plaintiff, Brandow, tried to say that the
15 people that were doing the floor plan reviews
16 were not competent and made errors in counting
17 the cars. And that resulted in their
18 out-of-trust situation, not paying for sold
19 cars, grew to the point where they couldn't pay
20 them off.

21 Q. They were saying that the
22 incompetence of the defendant in floor plan
23 review in counting cars linked to what?

24 A. Not to belabor it, but when a car
25 dealership borrows against the cars in